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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/662,367

09/16/2003

Michael Shackelford

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EXAMINER

LEIVA, FRANK M

ART UNIT

PAPER NUMBER

3714

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/662,367	<b>Applicant(s)</b> SHACKLEFORD, MICHAEL	
	<b>Examiner</b> FRANK M. LEIVA	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 70 and 71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 70 and 71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Acknowledgements***

1. The examiner acknowledges claims 1-69 canceled and new independent claims 70 and 71 in applicant's submission filed 31 January 2009.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 62 and 64-71 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,098,985) in view of Carrico et al. (US 6,416,407 B1).**

5. Regarding the combination of Moody and Carrico; both inventions disclose a gaming machine for video poker both manipulating the basic 5 card draw poker game, and thus both invention would be analogous and combining the teachings would be obvious.

6. **Regarding claim 70; Moody discloses** a method to play a wagering game, the method comprising receiving a wager from a player, (abstract line 2); dealing a first initial hand of 5 cards face up, (abstract lines 5); selecting, by a player, first hand hold card(s) from the first initial hand, (abstract lines 6-7); forming a second initial hand using

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the first hand hold card(s), the second initial hand being in a different row than the first hand, (abstract lines 7-8); forming a third initial hand using the first hand hold card(s), the third initial hand being in a different row than the second hand, (abstract lines 7-8 and fig. 2); replacing all card(s) in the first initial hand which are not first hand hold card(s) with newly dealt face up card(s) to form a first intermediate hand, the first intermediate hand being in a same row as the first initial hand, dealing new card(s) face up in the second initial hand to form a second intermediate hand with 5 cards, the second intermediate hand being in a same row as the second initial hand, dealing new card(s) face up in the third initial hand to form a third intermediate hand with 5 cards, the third intermediate hand being in a same row as the third initial hand, (abstract lines 9-14 and figs. 3-5); and evaluating the first final hand, the second final hand, and the third final hand, and paying any awards earned based on the evaluating, (col. 3:37-41);

Moody is silent to drawing a second time on any hand formed from the first hold cards. Carrico discloses selecting, by a player, first intermediate hand hold card(s) from the first intermediate hand and replacing all card(s) in the first intermediate hand which are not first intermediate hand hold card(s) with newly dealt face up card(s) to form a first final hand, (col. 2:60-col. 3-3), where Carrico teaches the a game of poker where the player may hold and draw cards more than once till the player is satisfied of the hand it has. Carrico is silent to the nuances of a multi-hand game, but a combination of Moody's multi-hand game in which the player is allowed to draw on all three hands would obviously allow to re-draw on all the hands and thus would also teach selecting, by a player, second intermediate hand hold card(s) from the second intermediate hand and replacing all card(s) in the second intermediate hand which are not second intermediate hand hold card(s) with newly dealt face up card(s) to form a second final hand, and selecting, by a player, third intermediate hand hold card(s) from the third intermediate hand and replacing all card(s) in the third intermediate hand which are not third intermediate hand hold card(s) with newly dealt face up card(s) to form a third final hand. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the teachings of Moody's multi-hand feature with the teachings of Carrico's multi-draw feature to give the player more betting chances and

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more winning opportunities, bringing more revenues to the casino and satisfaction to the patrons.

**7. Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,098,985).**

**8. Regarding claim 71; Moody discloses** a method to play a wagering game, the method comprising an electronic gaming machine, receiving a wager from a player, (abstract, line 2); dealing a first initial hand of 5 cards face up (abstract lines 5); selecting, by a player, first hand hold card(s) from the first initial hand, (abstract lines 6-7); forming a second initial hand using the first hand hold card(s), the second initial hand being in a different row than the first hand, (abstract lines 7-8); forming a third initial hand using the first hand hold card(s), the third initial hand being in a different row than the second hand, (abstract lines 7-8 and fig. 2); replacing all card(s) in the first initial hand which are not first hand hold card(s) with newly dealt face up card(s) to form a first intermediate hand, the first intermediate hand being in a same row as the first initial hand, dealing new card(s) face up in the second initial hand to form a second intermediate hand with 5 cards, the second intermediate hand being in a same row as the second initial hand, dealing new card(s) face up in the third initial hand to form a third intermediate hand with 5 cards, the third intermediate hand being in a same row as the third initial hand, (abstract lines 9-14 and figs. 3-5); evaluating ranks of the multiple first final hands and paying any respective awards to the player, (col. 3:37-41). Moody is silent on repeating the step of selecting cards and forming another set of three hands as done by the first selecting of claim 71, and in such the selecting, by a player, first intermediate hand hold card(s) from the first intermediate hand and generating multiple first final hands, each first final hand formed using the first intermediate hand hold card(s) and newly dealt face up card(s), each of the multiple first final hands being dealt in a separate row, selecting, by a player, second intermediate hand hold card(s) from the second intermediate hand and generating multiple second final hands, each second

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final hand formed using the second intermediate hand hold card(s) and newly dealt face up card(s), each of the multiple second final hands being dealt in a separate row, and selecting, by a player, third intermediate hand hold card(s) from the third intermediate hand and generating multiple third final hands, each third final hand formed using the third intermediate hand hold card(s) and newly dealt face up card(s), each of the multiple third final hands being dealt in a separate row, would be considered a mere duplication of parts and has no patentable significance unless a new and unexpected result is produced, (MPEP Chapter 2144.04 [R-6] VI), the result in this case is the generation of three more hands per already generated three hands with a total of nine hands, and if done again would yield 27 hands. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to replicate the original steps of Moody and yielding the predictable result of generating nine more playing hands.

**9. Examiner's Note:** Examiner has cited paragraphs and figures in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

**10.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

03/03/2009

/Peter D. Vo/

Supervisory Patent Examiner, Art Unit 3714